



UNITED STATES GOVERNMENT

NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

Washington, D.C. 20570

June 21, 2017

Mark J. Langer, Esquire
Clerk, United States Court of
Appeals for the District of Columbia Circuit
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, NW, Room 5423
Washington, D.C. 20001-2866

Re: *King Soopers, Inc. v. NLRB*, D.C. Cir.
Nos. 16-1316, 16-1367

Dear Mr. Langer:

On June 9, 2017, the Court handed down its opinion granting the petition of King Soopers, Inc. in part and granting in part the Board's cross-application for enforcement. Pursuant to Rule 19 of the Federal Rules of Appellate Procedure, I hereby submit the Board's Proposed Judgment in the above entitled manner. A certificate of service is enclosed.

Very truly yours,

/s/ Linda Dreeben

Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half Street, SE
Washington, DC 20570
(202) 273-2960

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

KING SOOPERS, INC.)	
)	
Petitioner/Cross-Respondent)	Nos. 16-1316,
)	16-1367
v.)	
)	
NATIONAL LABOR RELATIONS BOARD)	
)	
Respondent/Cross-Petitioner)	

JUDGMENT

Before: GARLAND, *Chief Judge*, GRIFFITH, *Circuit Judge*, and EDWARDS,
Senior Circuit Judge

THIS CAUSE came to be heard upon a petition filed by King Soopers, Inc. to review an Order of the National Labor Relations Board dated August 24, 2016, in Case No. 27-CA-129598, reported at 364 NLRB No. 93, and upon a cross-application for enforcement filed by the National Labor Relations Board to enforce said Order. The Court heard argument of all parties and has considered the briefs and agency record filed in this cause. On June 9, 2017, the Court, being fully advised in the premises, handed down its opinion granting in part the petition of King Soopers, Inc. and granting in part the Board's cross-petition for enforcement. In conformity therewith, it is hereby

ORDERED AND ADJUDGED by the Court that King Soopers, Inc., Denver, Colorado, its officers, agents, successors, and assigns, shall abide by said order (See Attached Order and Appendices).

Judge, United States Court of Appeals
for the District of Columbia Circuit

Judge, United States Court of Appeals
for the District of Columbia Circuit

ENTERED:

Judge, United States Court of Appeals
for the District of Columbia Circuit

NATIONAL LABOR RELATIONS BOARD

v.

KING SOOPERS, INC.

ORDER

King Soopers, Inc., Denver, Colorado, its officers, agents, successors, and assigns, shall

1. Cease and desist from
 - (a) Suspending twice and terminating an employee because she questioned her work duties under the collective-bargaining agreement.
 - (b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act.
 - (a) Within 14 days from the date of the Board's Order, offer Wendy Geaslin full reinstatement to her former job or, if the job no longer exists, to a substantially equivalent position, without prejudice to her seniority or any other rights or privileges previously enjoyed.
 - (b) Make Wendy Geaslin whole for any loss of earnings and other benefits suffered as a result of the discrimination against her, in the manner set forth in the remedy section of the judge's decision, as amended in this decision.
 - (c) Compensate Wendy Geaslin for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and file with the Regional Director for Region 27, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar years.
 - (d) Within 14 days from the date of the Board's Order, remove from its files any reference to the unlawful discharge and two 5-day suspensions, and within 3 days thereafter notify the employee in writing that this has been

done and that the discharge and two 5-day suspensions will not be used against her in any way.

- (e) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.
- (e) Within 14 days after service by the Region, post at its Store #1 in Denver, Colorado, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 27, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, the notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since March 1, 2014.
- (f) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES

POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES
COURT OF APPEALS ENFORCING AN ORDER OF
THE NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO
Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT suspend or terminate or otherwise discriminate against any of you when questioning your work duties under the collective-bargaining agreement.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL, within 14 days from the date of the Board's Order, offer Wendy Geaslin full reinstatement to her former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to her seniority or any other rights or privileges previously enjoyed.

WE WILL make Wendy Geaslin whole for any loss of earnings and other benefits resulting from her two 5-day suspensions and termination, less any net interim earnings, plus interest, plus reasonable search-for-work and interim employment expenses.

WE WILL compensate Wendy Geaslin for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and WE WILL file with the Regional Director for Region 27, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar years.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any reference to the unlawful 5-day suspensions and unlawful termination of

Wendy Geaslin, and WE WILL, within 3 days thereafter, notify her in writing that this has been done and that the said disciplinary actions will not be used against her in any way.

KING SOOPERS, INC.

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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Respondent/Cross-Petitioner)	

CERTIFICATE OF SERVICE

I hereby certify that on June 21, 2017, I electronically filed the foregoing document with the Court for the United States Court of Appeals for the District of Columbia Circuit using the appellate CM/ECF system. I further certify that the foregoing document was served on all parties or their counsel of record through the appellate CM/ECF system.

s/Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half Street, SE
Washington, DC 20570

Dated at Washington, D.C.
this 21st day of June, 2017